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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/185,360 11/03/98 VACANT1

J MIT-6917(CMC

QM12/0324

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EXAMINER

ISABELLA.D

ART UNIT

PAPER NUMBER

3738

DATE MAILED:

03/24/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/185,360**

Applicant(s)  
**VACANTI ET AL**

Examiner  
**ISABELLA, DAVID J.**

Group Art Unit  
**3738**



☒ Responsive to communication(s) filed on Nov 3, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 6-12 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 6-12 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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*Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks'791 in view of any of Brendel, et al'299, Yannas'289, and Orton'695.

Sparks teaches a method for growing tissue graft in a patient's own body. The device and method of Sparks utilizes non-resorbable materials. It should be noted that Sparks was filed in 1967 back when very little resorbable materials were used in tissue applications. Currently, resorbable materials are widely used and employed in tissue reconstruction as shown by any of Brendel, et al, Yannas and Orton. To replace the non-resorbable material of Sparks with current resorbable matrixes as taught by Brendel, et al, Yannas and Orton for better tissue response and compatibility would have been obvious to one with ordinary skill in the art at the time of the invention thereof.

Claims 7,8,9,10,11 and 12 do not distinguish over Sparks, et al as modified by any one of Brendel, et al, Yannas and Orton.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Isabella whose telephone number is (703) 308-3060. The

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Examiner's Supervisor, Mickey Yu, may be reached at (703) 308-2672. The group receptionist may be reached at (703) 308-0858.

Should Applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 308-3590. Should Applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



**DAVID J ISABELLA**

**PRIMARY EXAMINER**

**GROUP 3300**

dji

March 20, 2000